

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

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U.S. DISTRICT COURT
MID. DIST. TENN.

CRAIG CUNNINGHAM, Pro-se)

Plaintiff)

v.)

) CIVIL ACTION NO.:

3 16 1675

Enhanced Recovery Company, LLC, dba Enhanced Resource Centers)

Defendants.

Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Enhanced Recovery Company, LLC, dba Enhanced Resource Centers is a debt collector as defined by the TCPA and is operating and can be served via registered agent CT Corporation System 1200 S. Pine Island Road, Plantation, FL 33324 and a mailing adress of 8014 Bayberry Rd., Jacksonville, FL 32256.

Jurisdiction

3. Jurisdiction of this court arises as the acts happened in this county.
4. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

5. In 2016, the Plaintiff received multiple debt collection phone calls to the Plaintiff's cell phone which connected the Plaintiff to an agent. The Plaintiff received a call at 615-348-1977 on several different occasions, from 615-866-0845 on 9/24/2015 and 800-728-7518 on 9/30/2015 and 800-728-7518 on 6/28/2016.
6. On another call, the agent identified the company website as ERCBPO.com and identified the company as ERC.
7. Each and every call contained was initiated by an automated telephone dialing system as defined by the TCPA, 47 USC 227 et seq. The call connected with a live person after about a 5-7 second delay, which is characteristic of an automated telephone dialing system.
8. This is just one of many harassing debt collection calls the Plaintiff has received, and the Plaintiff has not been able to ascertain where this erroneous information is coming from, and as ERC is just content to knowingly call what could be wrong numbers, the Plaintiff is therefore subjected to multiple harassing phone calls.
9. The Plaintiff alleges that Defendant ERC is a debt collector as defined by the FDCPA.
10. The Plaintiff is a third party, and the communication violated 15 USC 1692(c)(a)(b), which generally prohibits communication with 3rd parties, and the call was not being made for the purpose of acquiring location information as defined by 15 USC 1692(b). The Debt collector was taking a flyer just dialing possible numbers, knowing full well that they were quite likely to reach an innocent 3rd party. This is harassing behavior likely to annoy a reasonable person in violation of 15 USC 1692(d).

11. Upon information and belief, the Defendant also used an automated telephone dialing system to call the Plaintiff's cell phone in violation of the TCPA, 47 USC 227(b) and 47 USC 227(c)(5).
12. The calls violated 47 USC 227(b) as the calls were automated and placed to the Plaintiff's cell phone without the Plaintiff's consent and without an emergency purpose.
13. These calls were knowingly and willfully placed as there were multiple calls placed within a 12 month period and after the Defendants had or should have ascertained they were calling the wrong person.

Actual Damages

14. The Plaintiff has suffered actual damages to include annoyance, frustration, harassment, loss of concentration, reduced usage of his phone, and reduced battery power of his phone and battery life.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

15. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
16. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls without the Plaintiff's consent to the Plaintiff's Cell phone. The calls violated 47 USC 227(b) and 47 USC 227(c)(5) and the

regulations under 47 CFR 64.1200 et seq.

17. COUNT II

18. Violations of the Fair Debt Collection Practices Act (FDCPA)

19. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

20. The foregoing actions by the Defendants constitute multiple breaches of the FDCPA 15 USC 1692 et seq.

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$3000 for each phone call and \$1,000 for violations of the FDCPA.
- C. Actual Damages of \$10,000
- D. Pre-judgment interest from the date of the phone calls.
- E. Attorney's fees for bringing this action as incurred; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,

Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, Tn 37211



615-348-1977

June 29th 2016

5543 Edmondson Pike
Ste 248
Nashville, TN 37211

US District Court
801 Broadway
Nashville, TN 37203

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